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NEW YORK.

Poisons and Drugs—Sale of. (Chap. 502, Act May 3, 1915.)

SECTION 1. Sections * * * and 238 of chapter 49 of the laws of 1909, entitled "An act in relation to public health, constituting chapter 45 of the consolidated laws," as amended by chapter 422 of the laws of 1910, are hereby amended to read, respectively, as follows:

* * * * *
 "SEC. 238. *Poison schedules; register.*—It is unlawful for any person to sell at retail or to furnish any of the poisons of schedules A and B without affixing or causing to be affixed to the bottle, box, vessel, or package a label with the name of the article and the word poison distinctly shown and with the name and place of business of the seller all printed in red ink, together with the name of such poisons printed or written thereupon in plain legible characters.

"Wholesale dealers in drugs, medicines, pharmaceutical preparations, chemicals, or poisons, shall affix or cause to be affixed to every bottle, box, parcel, and outer inclosure of any original package containing any of the articles of schedule A a suitable label or brand in red ink with the word poison upon it.

"*Register.*—Every person who disposes of or sells at retail or furnishes any poisons included in schedule A shall, before delivering the same, enter in a book kept for that purpose the date of sale, the name and address of the purchaser, the name and the quantity of the poison, the purpose for which it is purchased, and the name of the dispenser. The poison register must be always open for inspection by the proper authorities and must be preserved for at least five years after the last entry. He shall not deliver any of the poisons of schedules A or B until he has satisfied himself that the purchaser is aware of its poisonous character and that the poison is to be used for a legitimate purpose. The provisions of this paragraph do not apply to the dispensing of medicines or poisons on physicians' prescriptions.

"The board shall add to any of the schedules from time to time as such action becomes necessary for the protection of the public. Schedules A, B, and C shall remain in force until amended by the rules."

SEC. 2. Section 240 of such chapter, as amended by chapter 422 of the laws of 1910 and chapter 630 of the laws of 1911, is hereby amended to read as follows:

"SEC. 240. *Revocation of license; misdemeanors; violations and penalties.*—No license or certificate shall be granted to any applicant guilty of felony or gross immorality, or that is addicted to the use of alcoholic liquors or narcotic drugs to such an extent as to render him unfit to practice pharmacology. Any license or certificate obtained by misrepresentation or fraud or that is held by any one unfit or incompetent from negligence, habits or other cause may be revoked after reasonable notice and an opportunity to be heard. The willful and repeated violation of any of the provisions of this article or the rules is sufficient cause for the revocation of a license or certificate. The license or certificate revoked shall on formal notice be delivered immediately to the board.

"*Misdemeanors.*—It is a misdemeanor for—

* * * * *
 "10. Any person to adulterate, misbrand or substitute any drug knowing or intending that it shall be used, or sells, offers for sale or causes to be sold any adulterated, misbranded or substituted drug.

"11. Any person to violate any of the provisions of this article in relation to the wholesaling, retailing or dispensing of drugs, chemicals, medicines, prescriptions and poisons for which violations no other punishment is imposed.

"*Violations and penalties.*—Any person that violates any of the provisions of this article who is not criminally prosecuted, on complaint of the board, as for a misdemeanor, shall forfeit to the people of the State of New York the sum of \$50 for every such violation, which may be paid to the board or sued for and recovered in the name of the people of the State of New York in an action brought therefor by the attorney general.

"A person accused of violation of any of the provisions of this article relating to adulterating, misbranding, or substitution shall not be prosecuted or convicted or suffer any of the penalties, fines, or forfeitures for such violation, if he establishes upon the hearing or trial that the drug or drugs alleged to be adulterated, misbranded, or substituted were purchased by him under a guaranty of the manufacturer or seller to the effect that said drug or drugs were not adulterated or misbranded within the meaning of this article and proves that he has not adulterated, misbranded, or substituted the same. A guaranty in order to be a defense to a prosecution or to prevent conviction or to afford protection, must state that the drug or drugs to which it refers are not adulterated, misbranded, or substituted within the meaning of the provisions of the statute of New York State and must state also the full name, and place of business of the manufacturer, wholesaler, jobber, or other person from whom the drug or drugs were purchased.

"In construing and enforcing the provisions of this article the word 'person' shall import both the plural and singular and shall include corporations, companies, partnerships, societies, and associations, and the act, omission, or failure of any officer, agent, or other employee acting for or employed by any person within the scope of his authority or employment shall in every case be the act, omission, or failure of the person as well as that of the officer, agent, or other employee, and such person shall be equally liable for violations of this article by a partnership, association, or corporation, every member of the partnership or association and the directors and general officers of the corporation and the general manager of the partnership, association, or corporation, shall be individually liable and any action, prosecution, or proceeding authorized by this article may be brought against any or all of such persons. When any prosecution under this article or under section 1142, section 80, section 81, section 82, section 1742, section 1743, section 1745, section 1746, section 1747, section 1748, section 1749, and section 1760 of the penal law and any amendment thereto is made on the complaint of the board, any fines collected shall be paid into the State treasury as provided by this article."

SEC. 3. Section 240a¹ of such chapter, as added by chapter 223 of the laws of 1913, is hereby amended to read as follows:

"SEC. 240a. *Proof required in prosecuting for certain violations.*—In an action or proceeding, civil or criminal, against any person for violating any provision of this article relating to retailing or dispensing drugs, chemicals, medicines, prescriptions, and poisons, or to misbranding or substituting, it shall be necessary to prove at the trial or hearing that at the time and place of the taking of any sample of drugs, chemicals, medicines, or poisons, to be analyzed, the person taking the same divided it into two substantially equal parts, hermetically or otherwise effectively and completely sealed, delivered one such sealed part to the seller, pharmacist, druggist, or storekeeper from whose premises such sample was taken and delivered the other part so sealed to the chemist designated by the State board of pharmacy; and the facts herein required to be proven shall be alleged in the complaint or information by which such action or proceeding was begun. The rules of the board shall be proven prima facie by the certificate of the secretary."

SEC. 4. Section 241 of such chapter, as amended by chapter 422 of the laws of 1910, is hereby amended to read as follows:

"SEC. 241. *Schedules A, B, and C.*—These schedules remain in force until revised by the board and approved by the regents.

"*Schedule A.*—Arsenic, atropine, corrosive sublimate, potassium cyanide, chloral hydrate, hydrocyanic acid, morphine, strychnine, and all other poisonous vegetable alkaloids and their salts, oil of bitter almond containing hydrocyanic acid, opium and its preparations, except paregoric and such others as contain less than 2 grains of opium to the ounce.

¹ Public Health Reports, Feb. 6, 1914, p. 389.

"*Schedule B.*—Aconite, belladonna, cantharides, colchicum, conium, cotton root, digitails, ergot, hellebore, henbane, phytolacca, strophantus, oil of savin, oil of tansy, veratrum viride, and their pharmaceutical preparations, arsenical solutions, carbolic acid, chloroform, creosote, croton oil, white precipitate, methyl or wood alcohol, mineral acids, oxalic acid, Paris green, salts of lead, salts of zinc, or any drug, chemical, or preparation which is destructive to adult human life in quantities of 60 grains or less.

"*Schedule C.*—Ammonia water, bicarbonate of soda, borax, camphor, castor oil, cream of tartar, dyestuffs, essence of peppermint, essence of wintergreen, nonpoisonous flavoring essences or extracts, glycerine, licorice, olive oil, sal ammoniac, salt-peter, sal soda, epsom salt, rochelle salt, sulphur, cod liver oil, vaseline, petroleum jellies, oil of origanum, oil of spike, flaxseed, rock candy, butter color, malt extract, extract of beef, beef, iron and wine, extract of witch hazel, quinine pills, cathartic pills, seidlitz powders, bay rum, perfumes, toilet water, turmeric, talcum powder, composition powder, porous plasters, court plasters, copperas, alum, gum arabic, lithia water."

Births and Deaths—Fees for the Registration of. (Chap. 385, Act Apr. 26, 1915.)

SECTION 1. Section 390¹ of chapter 49 of the laws of 1909, entitled "An act in relation to the public health, constituting chapter 45 of the consolidated laws," as added by chapter 619 of the laws of 1913, is hereby amended to read as follows:

"SEC. 390. *Fees of registrar for the prompt and correct return and filing of birth and death certificates.*—Except as hereinbefore otherwise provided each registrar and each physician shall be paid the sum of 25 cents for each birth certificate properly and completely made out and registered and each death certificate properly and completely made out in accordance with the international list of causes of death and returned and filed with the registrar and correctly recorded and promptly returned by him to the State commissioner of health, as required by this act. And in case no births or no deaths were registered during any month, the local registrar shall be entitled to be paid the sum of 25 cents for each report to that effect, but only if such report be made promptly as required by this act. All amounts payable to the local registrar under the provisions of this article shall be paid by the municipality comprising the registration district, upon certification by the State commissioner of health, and all amounts payable to physicians shall be certified to by the local registrar annually and paid to said physicians by said municipality. The State commissioner of health shall annually certify to the municipality the number of births and deaths properly registered, with the name of the local registrar and the amount due him at the rate fixed herein."

Health Laws and Regulations—Penalty for Violation of. (Chap. 384, Act Apr. 26, 1915.)

SECTION 1. Chapter 49 of the laws of 1909, entitled "An act in relation to the public health, constituting chapter 45 of the consolidated laws," is hereby amended by adding at the end of article 2 a new section, to be section 17, to read as follows:

"SEC. 17. *Violations of health laws or regulations.*—Any person violating, disobeying, or disregarding the terms of any lawful notice, order, or regulation prescribed by the State commissioner of health or by the sanitary code, or any provision of the public health law or sanitary code, for which a civil penalty is not otherwise expressly prescribed by law, shall be liable to the people of the State for a civil penalty of not to exceed \$50 for every such violation. Nothing in this section contained shall be construed to alter or repeal any existing provision of law declaring such violations or any of them misdemeanors or felonies or prescribing the penalty therefor."

¹ Public Health Reports, Dec. 19, 1913, p. 2803.